

**SPIRIT LAKE TRIBE
RESOLUTION NO. A05-15-097**

WHEREAS, the Spirit Lake Tribe, formerly known as the Devils Lake Sioux tribe of Indians is a federally recognized Indian tribe recognized American Indian Tribe governed by a revised Constitution dated May 5, 1960, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and as subsequently amended July 17, 1969; May 3, 1974; April 16, 1976; May 4, 1981; and August 19, 1996; and

WHEREAS, the Constitution of the Spirit Lake Tribe generally authorizes and empowers the Spirit Lake Tribal Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribe and of the enrolled members thereof; and

WHEREAS, the Spirit Lake Tribal Council (hereinafter the "Tribal Council") is the governing body of the Tribe and is empowered to administer the economic resources and financial affairs of the Tribe; and

WHEREAS, Article VI, Section 4 of the Constitution authorizes and empowers the Tribal Council to "enact ordinances to regulate the conduct and domestic relations of the members of the Tribe, or Indians from other tribes on the reservation, subject to the review of the Secretary of the Interior or his duly authorized representative,"; and

WHEREAS, the current sections of Title 3, Chapter 9 of the Spirit Lake Tribe Law and Order Code do not keep in mind the goals of preventing criminals from having a safe haven within the Spirit Lake Reservation boundaries. Essentially, the revision removes the requirement that a tribal warrant for arrest be issued before we can place someone in custody for a valid arrest warrant issued by another jurisdiction and then order extradition. This provision leads to many serious criminals falling through the cracks and not being taken into custody because those jurisdictions were unaware that they were supposed to send us their warrants on a regular basis. The revision would remove section 3-9-102 and section 3-9-103 as they are currently read and replace them with some clarifying sections about who can and shall arrest and the ability of the arrestee to waive his right to a hearing; and

WHEREAS, it is also in the best interests of the Spirit Lake Tribal Court and the Tribal Council to maintain a separation of powers, therefore it is in the best interests that section 3-9-109 be stricken from the Spirit Lake Tribe Law and Order Code entirely and shall no longer be valid; and

NOW THEREFORE BE IT RESOLVED, that Chapter 9 of Title 3 of the Spirit Lake Tribe Law and Order Code shall now be amended to read as follows:

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CHAPTER 9: EXTRADITIONS

3-9-101 Who May Be Extradited

Any person residing, located or present within the exterior boundaries of the Spirit Lake Reservation for whom an arrest warrant has been issued by any state court, municipal court, federal court or tribal court for the alleged commission of an offense and/or violation of law beyond the jurisdiction of the Spirit Lake Tribal Court may be extradited to another jurisdiction as provided for in this section.

3-9-102 Arrest

Any BIA and/or Spirit Lake Police Officer may arrest any person who is the subject of an arrest warrant issued outside of the jurisdiction of the Spirit Lake Tribal Court if the officer is presented with said warrant and/or if the officer has probable cause to believe that the person is the subject of such an arrest warrant.

3-9-103 Waiver of Hearing

Any person arrested on a warrant issued outside the jurisdiction of the Spirit Lake Tribal Court may waive the right to an extradition hearing in Tribal Court and consent to return to the applicable jurisdiction by executing a written waiver in the presence of a correctional officer, police officer and/or judge of the Tribal Court. If a waiver is executed, the Tribal Court shall issue an order transferring custody of that person to the applicable jurisdiction or, with the consent of the applicable jurisdiction, authorize the voluntary return of the person to the applicable jurisdiction.

3-9-104 Hearing

Upon arrest of a person who is the subject of an arrest warrant issued outside of the jurisdiction of the Spirit Lake Tribal Court, that person must be brought before the Tribal Court for a hearing not more than five (5) days after the arrest. The Tribal Court shall conduct a hearing to determine the validity of the warrant issued by the jurisdiction seeking extradition, to determine whether the person before the Court is the same person charged in the warrant and to consider other relevant circumstances as may be presented to the Tribal Court.

3-9-105 Issuance of Removal Order

Upon a determination that the warrant from the jurisdiction seeking extradition is valid, the person in custody is the person charged in the warrant and after considering all other relevant matters, the Court may execute an order authorizing and directing

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removal of that person by the appropriate officials of the jurisdiction seeking extradition.

3-9-106 Execution of Order and Notification to the Jurisdiction Seeking Extradition

If the Tribal Court executes such an order, the Judicial Clerk shall then notify the jurisdiction seeking extradition that the person sought is in custody and that the person sought must be removed within five (5) days.

3-9-107 Failure to Remove

If an appropriate official of the jurisdiction seeking removal does not appear and take custody within the allotted time, the person taken into custody shall be released and shall not be taken into custody again for the same charge unless a new warrant is issued by the jurisdiction seeking extradition.

3-9-108 Sanctions for Lack of Reciprocity

In no case shall an arrest warrant from a court of another jurisdiction be honored if that jurisdiction, by its laws, rules or practices prohibits or refuses to provide reciprocal extradition of a person who may be the subject of an arrest warrant issued by the Spirit Lake Tribal Court.

BE IT RESOLVED, that Section 3-9-109 of Title 3, Chapter 9 of the Spirit Lake Tribe Law and Order Code shall be stricken from the code and shall no longer be valid; and

BE IT RESOLVED, that these amendments to Title 3, Chapter 9: Extraditions of the Spirit Lake Tribe Law and Order Code shall supersede all other previous resolutions pertaining to Title 3, Chapter 9 that are inconsistent with this one; and

BE IT RESOLVED, that the Tribal Council hereby adopts the amendments to Title 3, Chapter 9 of the Spirit Lake Tribe Law and Order Code; and

BE IT FURTHER RESOLVED, that amendments and additions to the Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code pursuant to Section 1-3-101 of Title 1, Chapter 3 of the Spirit Lake Tribe Law and Order Code.

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CERTIFICATION

I, the undersigned as Secretary-Treasurer of the Tribal Council, do hereby certify that the Tribal Council is composed of six (6) members of whom six (6) were present, constituting a quorum for a Special Meeting duly called and convened on this 05th day of January, 2015 and approved this resolution by an affirmative vote of four (4) in favor, none (0) opposed, none (0) abstaining, and none (0) absent. (The Secretary-Treasurer does not vote and the Chairman votes only in case of a tie.)

Nancy G Robertson

**Nancy Greene-Robertson
Secretary-Treasurer**

Myra Pearson

**Myra Pearson
Chairperson**

